

STATE OF NORTH CAROLINA

File No.

22 CVS

647

Lincoln

County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Jason Baucom c/o Oxner + Permar, PLLC

Address

629 Green Valley Road, STE 300

City, State, Zip

Greensboro

NC

27408

VERSUS

Name Of Defendant(s)

Nearen Construction Company, LLC

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Nearen Construction Company, LLC

c/o CT Corporation System

160 Mine Lake Ct, STE 200

Raleigh

NC

27615

Name And Address Of Defendant 2



IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!

Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

Rebekah Wolfe

Oxner + Permar, PLLC

629 Green Valley Road, STE 300

Greensboro

NC

27408

Date Issued

5/29/22

Time

1:28

☐ AM☒ PM

Signature

Danna M. Dilbert

☐ Deputy CSC☒ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

AOC-CV-100, Rev. 4/18

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RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

STATE OF NORTH CAROLINA
LINCOLN COUNTY

FILED
GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

22 CVS 1647

2022 MAY 27 P 1:28

JASON BAUCOM,
LINCOLN CO., C.S.C.

Plaintiff,

BY _____

v.

NEAREN CONSTRUCTION
COMPANY, LLC

Defendant.

COMPLAINT WITH JURY DEMAND

NOW COMES Plaintiff, complaining of Defendant, who alleges and says:

STATEMENT OF FACTS AND JURISDICTION

1. The Plaintiff, Jason Baucom, is a citizen and resident of Greene County, Tennessee.
2. Defendant Nearen Construction Company, LLC is a limited liability company authorized and existing under the laws of the State of Alabama, with its registered office located at 160 Mine Lake Ct, Ste 200, Raleigh, Wake County, North Carolina and its principal office located at 209 3rd Ave SW, Cullman, Cullman County, Alabama. At all relevant times Defendant Nearen Construction Company, LLC did business in Lincoln County, North Carolina on a regular and routine basis.
3. At all relevant times, Defendant Nearen Construction Company, LLC was the general contractor for a project to construct an Express Oil Change at 7275 NC-73, Denver, Lincoln County, North Carolina.
4. Defendant Nearen Construction Company, LLC contracted with Huntley Brothers Company, Inc. (hereinafter sometimes referred to as "Huntley Brothers") as

masonry subcontractors for the project at the Express Oil Change in Denver, Lincoln County, North Carolina.

5. As work on the project began, Defendant Nearen Construction Company, LLC covered the vehicle inspection pit (used to work beneath vehicles) to prevent items from blowing down into the open hole. The pit was covered with one thin piece of wood. There were no cones, markings, or spray-painted warnings of any kind surrounding the area.

6. On or about May 31, 2019, the Plaintiff, Jason Baucom, was an employee of Huntley Brothers.

7. As part of his work on the subject job site, Plaintiff Jason Baucom was walking through the site, following behind his boss while listening to instructions. As he walked, Plaintiff stepped onto the wood covering the vehicle inspection pit and instantly fell through into the hole below, approximately 12-15 feet, causing catastrophic injury.

8. As a proximate result of the failure to warn and collapse of the wood laid over the pit, Mr. Baucom suffered severe and permanent injury including but not limited to a lacerated spleen and liver, fractured ribs, and injury to the L5-S1 resulting in spinal fusion surgery, medical expenses, lost wages, loss of use of his body, disfigurement, disability, loss of earning potential, and severe pain and suffering, future medical expenses, future lost wages and loss of earning potential and continued future pain and suffering.

**FIRST CLAIM FOR RELIEF- LIABILITY OF DEFENDANT NEAREN
CONSTRUCTION COMPANY, LLC**

9. Paragraphs 1 through 8 of this Complaint are reincorporated as if fully

set forth herein.

10. Upon information and belief, Defendant Nearen Construction Company, LLC contracted with Huntley Brothers to perform the masonry work for the Express Oil Change project in Denver, Lincoln County, North Carolina.

11. Upon information and belief, Defendant Nearen Construction Company, LLC represented that it had the expertise to serve as the general contractor responsible for the Express Oil Change project.

12. Defendant Nearen Construction Company, LLC owed a duty to the Plaintiff Jason Baucom to reasonably perform, direct, supervise, inspect, and oversee the subject construction project.

13. Defendant Nearen Construction Company, LLC was negligent and wanton in that said Defendant, by and through its agents, representatives, and employees:

- a. Negligently and wantonly failed to maintain the job premises, specifically the vehicle inspection pit area, in a reasonable and safe manner;
- b. Negligently and wantonly failed to correct the unreasonably dangerous condition of the subject vehicle inspection pit, and job site;
- c. Negligently and wantonly failed to reasonably inspect the job site;
- d. Negligently and wantonly failed to cover the vehicle inspection pit in a reasonable and safe manner;
- e. Negligently and wantonly failed to warn of the covered hole and

obscured dangerous condition;

- f. Negligently and wantonly failed to ensure that its employees, agents, representatives, managers, and/or contractors were performing the subject project in a reasonable and safe manner;
- g. Negligently and wantonly failed to ensure that its employees, agents, representatives, and contractors were competent to safely and reasonably perform, direct, supervise, and/or oversee the subject project;
- h. Negligently and wantonly failed to set policies and procedures that would allow it to properly, reasonably, and safely direct, supervise, and oversee work being performed on the subject project; and
- i. Was negligent and wanton in such other and further ways as will be determined through discovery and proven at trial.

14. As a proximate result of the negligent and wanton acts, omissions, and conduct of the Defendant Nearen Construction Company, LLC, Mr. Baucom suffered severe and permanent injury including but not limited to a lacerated spleen and liver, fractured ribs, and injury to the L5-S1 resulting in spinal fusion surgery, medical expenses, lost wages, loss of use of his body, disfigurement, disability, loss of earning potential, and severe pain and suffering, future medical expenses, future lost wages and future loss of earning potential and continued future pain and suffering.

15. Plaintiff Jason Baucom is entitled to recover from Defendant Nearen Construction Company, LLC an amount to be determined by the jury, but in any event greater than \$25,000.00.

16. To the extent that it is determined that the conduct of Defendant Nearen Construction Company, LLC related to or proximately causing the injuries to Plaintiff Jason Baucom complained of in this Action was willful and wanton in nature, Plaintiff is entitled to recover punitive damages in an amount to be determined by a jury, but in any event greater than \$25,000.00.

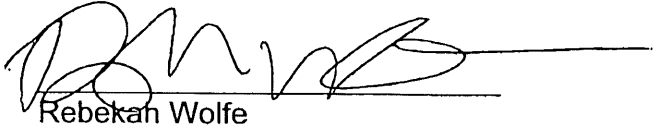
THE PLAINTIFF SEEKS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

WHEREFORE, Plaintiff Jason Baucom prays that he have and recover of the Defendant:

1. Compensatory damages in an amount to be determined by a jury but in any event greater than \$25,000.00;
2. To the extent that Defendant's conduct related to the Plaintiff's injuries is found to be willful and wanton, punitive damages pursuant to Chapter 1D of the North Carolina General Statutes, in an amount to be determined by a jury but in any event greater than \$25,000.00;
3. Costs incurred in the bringing of this Action;
4. Pre and post judgment interest as provided by law;
5. A jury to hear and determine all issues of fact; and
6. Any other such and further relief as the Court deems just and appropriate.

This the 27th day of May 2022.

OXNER + PERMAR, PLLC.

A handwritten signature in black ink, appearing to read 'Rebeka Wolfe', is written over a horizontal line.

Rebekah Wolfe

N.C. State Bar Number ~~43510~~ 49513

629 Green Valley Road, Ste. 300

Greensboro, NC 27408

Telephone: (336) 274-4494

Facsimile: (336) 274-4525

Rebekah.Wolfe@OxnerPermarLaw.com